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# ASSESSING AND ENHANCING PROTECTIONS IN CONSUMER FINANCIAL SERVICES

# HEARING

BEFORE THE

## COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

ON

ASSESSING THE CONSUMER FINANCIAL MARKETPLACE SINCE THE FINANCIAL CRISIS, PARTICULARLY THROUGH THE WORK OF THE CONSUMER FINANCIAL PROTECTION BUREAU

SEPTEMBER 18, 2014

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# C O N T E N T S

## THURSDAY, SEPTEMBER 18, 2014

# ASSESSING AND ENHANCING PROTECTIONS IN CONSUMER FINANCIAL SERVICES

**THURSDAY, SEPTEMBER 18, 2014**

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
*Washington, DC.*

The Committee met at 11:04 a.m., in room 538, Dirksen Senate Office Building, Senator Tim Johnson, Chairman of the Committee, presiding.

## OPENING STATEMENT OF CHAIRMAN TIM JOHNSON

Chairman JOHNSON. I call this hearing to order.

Six years ago this week, the collapse of Lehman Brothers sparked a financial panic more severe than most of us have seen in our lifetimes. The crisis exposed many failures in the financial system, including a failure to adequately protect consumers from financial products designed against their interests.

We created the Consumer Financial Protection Bureau to make sure that consumers would always have a voice and a guardian in the financial marketplace.

In the 3 years since the CFPB opened, the Bureau has proven itself to be a vigilant watchdog, standing up for hardworking American families and obtaining nearly $5 billion of relief for consumers.

Extensions of credit should be provided on fair and transparent terms and should be affordable and accessible to all populations—a point I also emphasized throughout this Committee's work on housing finance reform.

Small-dollar, short-term credit products serve an important demand, but like mortgages, should be carefully managed by both consumers and credit providers. Other financial products, such as prepaid cards, installment loans and payment developments, should include appropriate consumer protections. And consumer protections should also be a part of student loans to guard the next generation of Americans as they enter and leave college—an important topic this Committee has explored.

Ensuring that financial products are safely designed is one piece of the consumer financial puzzle. Another is ensuring that consumer are treated fairly when consumer debt enters collections.

Debt collection has consistently ranked as one of the most complained about issues with attempted collection of debt that is not owed as the most common complaint about debt collection. Among other effects, errors in debt collection can have adverse impacts on a consumer's credit report.

Credit reports, another top area of consumer complaints, are increasingly used for many purposes outside of credit decision, including employment, rental decisions and child custody. Although the accuracy and reliability of credit reports are of paramount importance, recent studies show that one in four consumers identified errors on their credit reports that might affect their credit scores.

I look forward to hearing from witnesses today on these important topics and other financial issues facing consumers today.

I am especially looking forward to hearing from Ms. Ekdom about issues in my home State of South Dakota which, unfortunately, has the highest student loan debt and also unique consumer challenges facing its tribal and rural populations.

As memories of the crisis fade, we must remain diligent in focusing on consumer financial issues, ensure that consumers have adequate protections and access to affordable credit, and support the CFPB's efforts to guard against abusive practices.

With that, I turn to Ranking Member Crapo.

**STATEMENT OF SENATOR MIKE CRAPO**

Senator CRAPO. Thank you very much, Mr. Chairman.

Consumer protection is an important part of a well-functioning and safe financial marketplace. However, consumer protection cannot happen in a vacuum.

Our regulators must consider the impact of regulatory actions on both consumers and financial institutions. Without taking these factors into account, regulators risk negatively impacting the cost and availability of credit and increasing the regulatory burden on financial institutions, especially at community banks and credit unions.

Increased regulatory burden manifests itself in two distinct ways—either consumers pay more for products and services or small depository institutions have to exit the market, leaving many rural areas with no banking presence to the detriment of local communities.

During the two most recent Committee hearings, I have highlighted the increasing regulatory burden that small- and mid-sized financial institutions face. These institutions are experts at relationship-building in communities across America, especially rural communities where longstanding consumer relationships are critically important.

The annual privacy notice requirement is an example of a policy sounding good in theory but ending up causing great confusion and ultimately becoming an unnecessarily burdensome regulation. Millions of dollars are spent on privacy notices that are neither read nor readily understood.

As was heard in the past two hearings, Senators Brown's and Moran's bill to repeal this requirement has widespread bipartisan support, with over 70 Senate co-sponsors. I fully support its quick passage in the Senate.

Regulations are not the sole reason for confusion and overreaction. In March 2013, Federal banking regulators led by the Department of Justice began an operation to prevent fraud in the payment system. The operation called Operation Choke Point, while allegedly commenced to make sure that fraud stays out of our pay-

ment system, has morphed into an attempt to shut down entire industries of law-abiding merchants.

Small businesses, banks and payments processors have all been targets of this expansive regulatory approach. Just this week, I heard from two Idaho business owners involved in the guns and ammunition business who experienced difficulty finding essential banking services as a result of Operation Choke Point.

While Federal regulators have reissued some guidance in this area, unfortunately, greater clarity is necessary for bank examinations so that law-abiding businesses are not denied banking services.

Regulators also have a duty to be fair and transparent when they change the rules. In March 2013, the CFPB issued a bulletin on their Web site called the Indirect Auto Lending Bulletin, which suggested that auto lenders move from a risk-based, competitive pricing model to a flat fee model. This is notwithstanding the fact that auto dealers themselves were exempted from coverage by the CFPB.

Because this significant policy change did not have to go through the traditional rulemaking process nor have public notice or comment, no cost-benefit analysis was completed. Such an approach could remove any assessment of a borrower's credit risk and dissolves any competition in the marketplace.

Without a cost-benefit analysis of this policy change, we have no idea how many consumers will be denied auto credit, and we have no idea how this will affect competition.

As the CFPB proceeds with its rulemaking agenda on items such as payday lending, overdraft protection, auto financing and arbitration, I, once again, urge the Bureau to complete a thorough, qualitative and quantitative cost-benefit analysis for each rule.

Regulation has real costs to consumers and businesses. It is incumbent upon the agencies to understand the cost of each regulatory action and to promote balanced and tailored regulations that provide market certainty.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator Crapo.

I remind my colleagues that the record will be open for the next 7 days for opening statements and any other materials you would like to submit.

Now I would like to introduce our witnesses.

Travis Plunkett is the Senior Director of Family Economic Stability at the Pew Charitable Trusts. Prior to joining Pew, Mr. Plunkett directed the Federal Legislative and Regulatory Affairs at the Consumer Federation of America.

Sheri Ekdom is the Director of the Center for Financial Resources at the Lutheran Social Services of South Dakota. Sheri has 22 years of experience in the credit consulting industry as well as a background in credit analysis, corporate training and credit operations.

Sheri, I am glad you were able to travel all the way from South Dakota to testify today.

Oliver Ireland is a Partner at Morrison & Foerster.

Hilary Shelton is Washington Bureau Director and Financial Vice President for Advocacy at the National Association for the Advancement of Colored People.

I thank you all for being here today, and I would like to ask the witnesses to please keep their remarks to 5 minutes. Your full written statements will be included in the hearing record.

Mr. Plunkett, you may begin your testimony.

**STATEMENT OF TRAVIS B. PLUNKETT, SENIOR DIRECTOR, FAMILY ECONOMIC STABILITY, THE PEW CHARITABLE TRUSTS**

Mr. PLUNKETT. Good morning, Mr. Chairman, Ranking Member Crapo, Senator Reed. It is great to be here with you.

Mr. Chairman, I would particularly like to thank you for holding this important hearing.

As you prepare to leave the U.S. Senate, I want to applaud your strong efforts and the Committee's strong efforts, to ensure that the Nation's financial markets function in an open and fair manner so that both consumers and businesses have an opportunity to thrive.

I lead a portfolio of work at the Pew Charitable Trusts that rigorously assess and, where warranted, promotes nonpartisan, evidence-based solutions to improve the safety and transparency of consumer financial markets and the financial health of the American family.

As you pointed out, Mr. Chairman, the Consumer Financial Protection Bureau is looking at a number of important consumer financial issues, some including debt collection and credit reporting that Pew is not involved with, but several very important issues that we are. I would like to highlight two for you today—prepaid cards and small-dollar loans.

Pew's most recent survey of card users shows that prepaid cards are used by 5 percent of Americans, about 12 million people, at least monthly, loading more than $64 billion onto these cards.

These cards are a versatile financial tool for 10 million households in the United States that lack or cannot get a checking or savings account, or that want to supplement checking or credit card accounts with one dedicated to saving or paying for something without the temptation of buying it on credit.

Considering the growing use of these cards as an alternative or complementary product to the traditional checking account, we think it is very important for consumers to be able to keep the funds on their prepaid cards secure and perform transactions without risk of losing money or going into debt.

Although the cards are used like checking account debit cards, currently, legal protections and rules governing debt cards do not apply to prepaid cards. For example, there are no rules preventing credit products, such as overdraft or a line of credit, from being attached to prepaid cards even though our research shows that a substantial majority of prepaid cardholders do not want overdraft features.

We have made a number of recommendations to the CFPB. I am just going to highlight a few:

First, that they prohibit overdraft or other automated, or linked, lines of credit.

Second, that they require the funds on these cards be insured by the FDIC or the NCUA. This does not happen in some cases for nonbank prepaid card issuers.

Third, that there be very good disclosure—concise, uniform, easy to understand and comparable to checking accounts because consumers compare them.

And, very importantly, the key fees and terms need to be disclosed very prominently and not in several parts so that some key fees and terms are disclosed and some are less disclosed. We are concerned that some cards then might hide the true cost of that card for the consumer.

On small-dollar loans, 12 million Americans take out payday loans each year, spending more than $7 billion. Our research has identified serious failures in the small-dollar loan market and shows how new policies can help lenders provide access to credit that leads to better consumer outcomes.

Here is the problem: A typical payday loan averages $375 but requires lump sum payment within 2 weeks of more than $400, on average, far exceeding most customers' ability to repay and meet other financial obligations without quickly reborrowing again. Most borrowers can afford, according to our research, to put no more than 5 percent of their paycheck toward a loan payment and still be able to cover basic expenses. Yet, in 35 States, repayment requires about one-third of an average borrower's paycheck.

Here are several recommendations for the CFPB as well:

First, ensure that borrowers have the ability to repay the loan as structured. Only a strong ability-to-repay rule can solve the problems caused by unaffordable loan payments.

The CFPB's own research—you know, their own research—has shown that half-measures about how often people can borrow do not work. If lenders are permitted to make any lump sum loans, they will likely circumvent the CFPB's role by directing borrowers to alternate between several lenders operating near each other.

We would like to see a role from the CFPB that covers both lump sum, the traditional payday loan, and installment payday loans. The market is migrating toward payday loans, small-dollar loans, that are paid off over time, over a longer period of time. But these loans also often have unaffordable payments, such as a $500 payday installment loan with fees of more than $1,100.

And we have also encouraged the CFPB to protect against excessively long loan terms. Some lenders have made loans that drive up costs by extending the terms far longer than necessary. Example: 16 months to repay a $500 title loan.

Final issue is to address a rulemaking that the Department of Defense is considering on the Military Lending Act to make sure that, once again, we have a broad role that does not allow lenders to shift their products just a little bit and not be covered by the law.

I would like to close by just reflecting on the CFPB's role. As you well know, it was created in the wake of the financial crisis to make markets safe, efficient and transparent. The CFPB will play

a crucial role in the next couple of years—to enhance consumer protections in the areas I have identified.

So far, they have taken a very methodical approach to understanding and addressing problems in these markets. In particular, their research in initial enforcement actions on transaction accounts and small-dollar loans has been thorough and deliberate.

These steps provide a basis for the Bureau to propose effective new rules in the months ahead, and it is now up to the CFPB to seize this historic opportunity.

I applaud this Committee once again for its oversight of the Bureau's work and urge you to continue to do this in the next year or so, to ensure that the Bureau acts in a timely, effective and also balanced manner.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you.

Ms. Ekdom, please proceed with your testimony.

**STATEMENT OF SHERI EKDOM, DIRECTOR, CENTER FOR FINANCIAL RESOURCES, LUTHERAN SOCIAL SERVICES OF SOUTH DAKOTA**

Ms. EKDOM. Senator Johnson, before I begin my testimony, on behalf of Lutheran Social Services of South Dakota, I would like to recognize your upcoming retirement, your work as a South Dakota legislator early on in your career and now nearly 30 years as a Congressman and Senator from South Dakota.

We thank you for your tireless efforts, especially your dedication to underserved populations who have limited resources and means. Over the years, you have allowed their voices to be heard and their lives improved.

Your work has made a difference, and we thank you for that.

Chairman Johnson, Ranking Member Crapo and Members of the Committee, thank you for inviting me to testify.

Lutheran Social Services provides financial counseling and education designed to help consumers take control of their financial future. Products offered are both reactive, as in the case of working through a financial crisis, and proactive for those seeking to prevent money problems or plan ahead for their future financial goals.

We work with people from all age and income levels. However, the majority of clients seen fall in the low to moderate income range.

A number of factors put many South Dakotans at risk for a financial crisis:

54 percent of South Dakota households have difficulty covering their expenses and paying bills.

57 percent of individuals do not have an emergency fund.

32 percent have borrowed from a nonbank source, such as a payday lender.

22 percent of South Dakota households are under banked.

South Dakota ranks 48th in the Nation for the average weekly wages earned by workers.

South Dakota ranks first in the Nation for the percentage of workers who hold more than one job.

South Dakota is home to nine Indian reservations.

The challenges faced by these residents have been well-documented. Limited employment opportunities, generational poverty and geographic isolation make it difficult for families to become financially stable.

The following issues describe some of the most significant financial challenges that we see in our work:

Low wages and underemployment remain significant issues.

The majority of clients seeking assistance are insolvent. Their income does not cover their living expenses.

Clients coming into our office have high debt levels with little or no savings.

There are many individuals that do not understand the ramifications of using short-term or payday loans as an attempt to resolve long-term issues.

Low-income housing options remain scarce. On average, those seeking rental assistance can expect to remain on a waiting list for three to 5 years. Landlord-tenant issues are common.

Medical issues and medical debt are one of the top reasons consumers seek our assistance.

Consumers are quite often afraid and intimidated by tactics used by debt collectors to collect payments.

Many consumers seek our assistance on how to build a credit report and how to improve their credit score. Some have fallen prey to credit repair scams that do little more than dispute accurate negative information and charge a high fee.

The average client coming to see us with debt-related issues owes 10 creditors over $28,000 in unsecured debt.

The Consumer Financial Protection Bureau and the Federal Trade Commission Web sites are helpful in our work as we strive to protect consumers by sharing educational tools and keeping us abreast of changes within the consumer protection arena.

I would offer the following recommendations to enhance financial protections:

First, limit the number of short-term loans consumers may access at one time. Trouble typically comes when consumers have multiple short-term loans that exceed their ability for repayment. With the wide availability of online options, it would seem that a limitation on multiple loans may need to come from a Federal level.

Second, support and promote community-based financial education. Our issue today is not a lack of good, quality, accurate education materials. Our issue is getting that information into the hands of consumers in a format they desire and that they can understand and digest. We need to determine methods, incentives and motivations so people will hear the information that can change their financial futures.

Education from a neutral third party that is not selling the financial product also ensures that consumers are able to make decisions about big-ticket items, fully educated and without the pressure of any sales tactics.

Thank you for the opportunity to testify.

Chairman JOHNSON. Thank you.

Mr. Ireland, please proceed with your testimony.

**STATEMENT OF OLIVER I. IRELAND, PARTNER, MORRISON & FOERSTER**

Mr. IRELAND. Thank you, Chairman Johnson.

I understand this may be your last hearing on consumer issues, and on behalf of the consumer financial services community I want to thank you for your leadership on this Committee.

Financial services issues, as we have heard already on this panel, are complex and—as we will find out and as you know—controversial, but they are critical to American households, and we all owe you a debt of gratitude.

Chairman Johnson, Members of the Committee, my name is Oliver Ireland. I am a Partner in Financial Services at Morrison & Foerster here in D.C. I have been in retail financial services and other financial services for 40 years, 26 years with the Federal Reserve and 14 as a private attorney.

I am here today to address consumer financial services in the wake of the financial crisis and the enactment of the Dodd-Frank Act. Key components of that Act were the creation of the CFPB and the adoption of new standards for mortgages. The Credit Card Act of 2009 has also shaped the current market for consumer financial services.

Although real problems led to the enactment of these laws, these Acts and the actions of the Federal banking agencies are having a chilling effect on consumer financial services.

The Dodd-Frank Act stated that the purpose of the CFPB is to ensure consumers have access to consumer financial services and that markets for consumer financial services are fair, transparent and competitive. This purpose has a lofty goal, but the pursuit of fairness for consumers and zeal in enforcing consumer laws can make services uneconomical for providers and reduce access to services.

For example, the Credit Card Act was enacted to curb credit card practices, but industry data shows a significant reduction in the availability of credit card credit to consumers while other forms of household credit, including automobile loans and student loans, appear to have increased. These data show that regulatory changes can lead to a reduction in the availability of services, forcing consumers to find substitute services that may actually be on less advantageous terms.

In making regulatory policy, it is important to consider the effect on consumers' access to services and how consumers will meet their needs going forward. In some cases, the stakes are higher.

The Dodd-Frank Act sought to protect consumers and improve the mortgage market. It has taken some time for these changes to be put into place, and not all of them have been fully implemented even now.

So it is difficult to assess the overall impact of these reforms, but early indications are that they are materially reducing mortgage originations. In the mortgage market, the potential effects of fewer originations on economic growth and employment are important as well as consumer access to credit.

Looking beyond credit cards and mortgages, the markets for other consumer financial products and services are characterized by a higher level of uncertainty than I have observed before. This

uncertainty appears to arise from regulators' reliance on generalized guidance and enforcement actions to shape policy. Broad guidance can cause financial institutions to abandon products that may not have been the focus of the guidance because the guidance is not well understood. Similarly, it is simply not possible to read public enforcement actions and to understand the specific practices that led to the actions. This uncertainty makes it difficult to determine how to proceed with current products and services, and how to determine whether or how to offer new products or services.

This level of uncertainty could be reduced if regulators relied more on rule-writing processes where clear rules are developed through notice and comment. This process, this rule-writing process, is far more conducive to fair, transparent and competitive markets as envisioned by Dodd-Frank than reliance on vague guidance and enforcement actions.

Thank you for the opportunity to be here today, and I would be happy to respond to any questions.

Chairman JOHNSON. Thank you.

Mr. Shelton, please proceed with your testimony.

**STATEMENT OF HILARY O. SHELTON, DIRECTOR, NAACP WASHINGTON BUREAU AND SENIOR VICE PRESIDENT FOR POLICY AND ADVOCACY**

Mr. SHELTON. Good morning, Chairman Johnson, Senator Crapo, Senator Reed and esteemed Members of this panel.

Thank you so much for inviting me here today to testify and for requesting the input of the NAACP on this very important topic.

Founded more than 105 years ago, the NAACP currently has more than 1,200 active membership units across the Nation as well as military bases in Europe and Asia. We have hundreds of thousands of card-carrying members in every one of the 50 States and, indeed, through the world.

I was asked to address whether the community is being adequately served by financial services providers. Sadly, my unequivocal answer is no.

Too many Americans, and especially racial and ethnic minority Americans, lost their jobs and in some cases their homes in the recession of 2008, and they have not, so far, been able to fully recoup their losses. As a result, we have lost access to affordable and sustainable credit and capital.

One example, which I provided in more detail in my written testimony, is having a bank account. While just over 8 percent of all American homes do not have a bank account, more than 20 percent of African Americans are outside of the American banking system.

One direct result of being frozen out of the traditional banking system is more of a reliance on nontraditional, or alternative, sources of capital. By nontraditional, I am referring to check cashers, title lenders and payday lenders, among others, which usually lend relatively small amounts of money for a short term.

Let me be clear. While the NAACP strongly opposes any law or regulation which would restrict the flow of credit and capital to our areas, we are strongly against any predatory practices which drain financial resources and appear to target particular segments of the

American population. It is this policy which brings us to the role of the Consumer Financial Protection Bureau, or the CFPB.

The NAACP has been a strong and steadfast supporter of the CFPB since its inception as it is the only agency with the Federal Government whose primary charge is the protection of the American consumer.

Since its inception, the CFPB has taken great steps to limit the potential harm which financial tools and companies can impart upon Americans. Over the past 3 years, the CFPB has taken dramatic steps to help halt the financial abuses of American consumers by financial companies.

In many cases, the victims of these abuses are people of lower and moderate income. Since 80 percent of African American families fall into this definition, the NAACP has worked with, and monitored the impact of, the CFPB on the communities served and represented by the NAACP since its creation over 3 years ago.

On a national level, we at the NAACP Washington Bureau have worked with the CFPB to ensure that the rules, enforcement actions and supervisory activities are fair and will, overall, have a positive impact on our communities.

In my written testimony, I provide detailed numbers of many of the accomplishments the CFPB has in just 3 years, but allow me to summarize here by saying they have given a huge voice to consumers and others who may have questions about financial services.

Locally, the NAACP Financial Freedom Center works with the CFPB to enhance the capacity of racial and ethnic minority Americans and other underserved groups through financial economic education, to promote diversity and inclusion in business hiring, career advancement and procurement, and to monitor financial banking practices and promote community economic development.

I was also asked to detail which consumer financial issues warrant additional scrutiny.

Put broadly, it is the hope of the NAACP that the CFPB and Congress will take a stronger look at the structural racism inherent in the financial services arena and its impact on communities of color. Many of the issues facing our communities require legislative action, and as a result, the NAACP is hopeful that the 114th Congress will prove to be more responsive to our real financial concerns.

Higher-cost credit, or the lack of any credit, in the communities of color widens the racial wealth gaps and concentrates African American and Latino families into areas of concentrated poverty. Specific issues include the need to stop high-cost predatory loans that seem to be pervasive in the communities across our Nation which are served and represented by the NAACP.

The NAACP strongly supports legislation in the House and in the Senate—that is, S. 673 and H.R. 5130—which place a 36 percent APR cap on all lending.

These wealth-stripping loans may provide very short-term relief, but their ultimate price tag is too steep to justify their existence.

In my written testimony, I also outline steps which the CFPB can take through regulation to stop, or at least expose, abusive lending services.

The NAACP also opposes the use of credit reports by prospective employers as well as insurance companies, among others.

Credit scoring favors consumers who have access to traditional forms of credit, such as auto and home loans, credit cards and personal loans. Thus, once again, racial and ethnic minorities are at a disadvantage when credit scoring and credit reports are increasingly used for everything from renting an apartment to getting a job.

With that, Mr. Chairman and other Members of the Committee, I look forward to your questions.

Chairman JOHNSON. Thank you all for your testimony.

I will now ask the clerk to put 5 minutes on the clock for each Member.

Ms. Ekdom, you have been involved in credit counseling for many years. Do you feel that the creation of the CFPB has been helpful for consumers, and what impact has the Bureau had on your work.

Ms. EKDOM. I would start by saying that I think the Bureau has been helpful to consumers. It allows opportunities for them to be heard.

Their Web site is set up in such a way that complaints can be filed. We have referred some clients that have had housing issues, and they have indicated that the responsiveness of the CFPB was significant in terms of being very responsive.

And I think overall it has allowed customer service to be improved. I do not know that consumers always receive the ultimate answer that they want, but it eliminates some of the red tape and improves communication.

There are a couple other parts of the Web site that I think are very helpful.

There is a section where consumers can tell their story. And I think a lot of times, when we are dealing with financial issues, people feel that they are alone and that they are the only ones that are in the situation or the only ones that have a mistake or the only ones that are being victimized in a certain way. So allowing people to tell their story and others to be able to see that they are not alone, I think, is very helpful.

There is also a component to the Web site where consumers can ask questions to the CFPB and receive answers. It does not necessarily just limit to the answer to the question. For example, there are sections on how to choose like a credit counseling agency, where the CFPB not only answers how to choose that; it arms consumers with questions that they can take as they go out and try to self-select—how am I going to choose who I work with?

So I think the Web site and the information overall has been helpful to consumers and has impacted our work also.

Chairman JOHNSON. Thank you.

Mr. Plunkett, under Wall Street Reform, the CFPB is required to complete a study on the use of mandatory pre-dispute arbitration agreements.

Can you describe why such a study is important?

Mr. PLUNKETT. Certainly, Mr. Chairman.

Pew has done a great deal of research on mandatory pre-dispute arbitration agreements both for checking accounts and prepaid

cards, finding, for example, that the larger financial institution is the—more likely, its checking account agreement is to contain a clause requiring binding mandatory arbitration.

The reason this is important for the CFPB to study, and ultimately to look at rules on, is because pre-dispute binding arbitration clauses prevent consumers from choosing the option of challenging unfair and deceptive practices or other legal violations in court, potentially allowing abusive practices to spread without legal or public scrutiny.

They also deprive consumers of important legal remedies such as a jury trial, curtail judicial civil procedures and due process protections such as the ability to appeal a decision, and raise serious conflict-of-interest concerns if companies that provide arbitration services provide repeat business to the financial institutions that mandate it.

Chairman JOHNSON. Thank you.

Mr. Shelton, the EEOC has stated that using a person's credit rating for employment adversely impacts minorities and women, and others have noted the impact of credit reports on the ability to obtain credit or rent for a home.

Can you provide your perspective on the use of credit reports for these purposes and whether you think credit reports adversely impact minorities?

Mr. SHELTON. Thank you very much, Mr. Chairman.

It is a really challenging process when those of us, those who have been out of work for so long, find themselves in the position of the challenges they have had paying their bills during the time they were out of work. I mean, many of us still very clearly remember the big economic downturn of 2008.

As such, those who have been able to hold on long enough to look for a job find themselves at odds with the situation they are in; that is, the employer will not consider hiring them because their credit score suffered during the time in which they were unemployed, but the manner in which you fix the payment problem is to make sure they get employed, that they have an income.

African Americans and other racial and ethnic minorities find ourselves disproportionately unemployed, and it takes even longer, according to our experts, for us to get a new job after losing a job. In essence, we find ourselves in a much worse condition.

On any given day, you can look at the reports coming from the Department of Labor, and you will see that the African American community is unemployed at a rate that is twice as high as our white counterparts.

So it creates a major problem for us.

Chairman JOHNSON. Senator Crapo.

Senator CRAPO. Thank you very much, Mr. Chairman.

Mr. Ireland, on Tuesday, the Committee heard from several witnesses regarding the regulatory burden for mid to small financial institutions. And, previously, I have raised concerns with the Consumer Financial Protection Bureau's often irregular regulatory process.

For example, the Bureau's Indirect Auto Lending Bulletin, which I referenced in my opening statement, represented a major shift in

policy in the United States, with no public notice, no public comment and simply the issuance of a bulletin from the agency.

Another example is the Bureau's supervision by repeated enforcement action. You mentioned this general issue in your testimony.

Could you describe in a little more detail the compliance challenges that financial institutions face when dealing with regulation through bulletins or with best practice regulation or supervising through enforcement?

Mr. IRELAND. Sure. I would be happy to. It is what I do a lot and spend a lot of my time doing.

And we will get—an institution will come to us, a bank or other financial institution—to look at their policies, procedures, their practices, to make sure that they are compliant because they have seen a new guidance come out or a new enforcement action.

And a lot of times we will look at the guidance, and the guidance will be written so broadly; it covers almost everything. If you look at one part, they will have a string of coverage terms, of factors that may go into coverage of the guidance, that will cover almost any service you look at in that area.

And so it is very hard to sort out what they are trying to get at and what they are not.

Enforcement actions are even more difficult. You will see an enforcement action on a product, and without knowing the discussions between the individual institution and the enforcing agency, be it the CFPB or the banking agencies, you do not know what the problem was with that product.

So you cannot sit down and read the enforcement actions in a specific area and figure out what the current rules of the game are, and that makes it very difficult to figure out how to—whether or not to continue to offer financial products and whether or not to offer new or innovative financial products.

Senator CRAPO. Well, thank you.

And one example that I would like to pursue with you, if you have any other observations to give to it, is the idea of the operation that I mentioned also in my opening statement, Operation Choke Point, which I think is something that is operating and having the consequences that you just described.

This operation has received a lot of attention in the media and in Congress, and I am concerned that financial institutions are facing unrealistic regulatory expectations as a result of this operation.

It has already negatively impacted at least two Idaho small businesses that have come to me and a number of community banks that do not really know how to act with regard to this operation that is going on. So what they end up doing is retrenching very radically.

And just this week, I heard from two gun manufacturers. Apparently, firearms and ammunition are not politically favored at this point through this operation.

And so totally legitimate businesses are finding it hard to find access to financing as a result of this very confusing regulatory system that we are facing.

Could you offer some of your observations there?

Mr. IRELAND. Yes, I would be happy to.

It is not just financing. It is deposit accounts as well. They are having their accounts closed. Some of the banks refer to it as de-risking.

When the examiners come into an institution and start to criticize various areas—you do not have enough controls over who your deposit account customers are—without giving clear guidance as to what the problem is, the natural reaction, particularly in the post-crisis environment, is to get out, is to cut back services, so that you do not get examiner criticism. And Operation Choke Point, in my opinion, has resulted in a lot of banks, small and large banks, cutting back on particularly deposit and payment services to customers.

Senator CRAPO. But these are totally legitimate businesses.

Mr. IRELAND. These are totally legitimate businesses.

We hear from it. We hear about this all the time.

And it is difficult for them to find replacement services.

And the banks that are trying to deal with Choke Point do not really have a good handle on what they are supposed to do, and so they are overly conservative in response to it.

Senator CRAPO. Thank you.

My time is out. I would like to explore it further with you if we get a minute.

Mr. IRELAND. Sure.

Chairman JOHNSON. Senator Reed.

Senator REED. Well, thank you, Mr. Chairman.

Thank you, all the witnesses, for their excellent testimony.

Let me address a question to Mr. Shelton and Mr. Plunkett.

I have been very active in trying to ensure that the Military Lending Act truly protects our soldiers, sailors, airmen and Marines.

And you know that, Mr. Shelton, many of your members are active duty and on post.

Mr. Plunkett, you are very active in this area, too.

I come to this from when I was much, much younger, commanding a paratrooper company and listening to soldiers walk in, saying they had done something financially, unaware of the consequences and suffering.

An example of that was recently given to us by the Consumer Federation of America. A lender made a vehicle title loan to a service member in June of 2011 on a 13-year-old car. The loan amount was $1,615 to be repaid in 32 months with $15,613 of interest at a 400 percent annual percentage rate.

Now this loan was exempt from the current MLA rules because it was 181 days. The rule only covers 180-day loans.

Also, there is a mandatory arbitration clause in the loan, which would have been prohibited in the MLA.

Now I will ask what might be described as a leading question. Do you think we should broaden the rules so that we actually protect service men and women?

Mr. SHELTON. Senator Reed, absolutely, yes.

It was a smart idea to provide those protections to those very brave young men and women that are serving in our armed services today throughout the country. We hear so many stories of them for the first time actually having the kind of income that they

may be able to own an automobile as a hardworking member of our services.

The example you just gave is one of many that have been shared with us. I was looking at the data of a guy that took out a loan for $2,604 and ended up paying $4,426 and other charges—which is the equivalent of 124.7 percent APR.

It is outrageous. It has to stop. And we have to do everything we can to fill in those loopholes that are still part of the Act. Senator Reed. Thank you.

I am hearing that the Defense Department is revising regulations, but your comments might provide more impetus.

Mr. Plunkett, your comments?

Mr. PLUNKETT. Senator, as I mentioned earlier, our policy recommendation is very broad for all policymakers, whether at the State level, the CFPB, the Department of Defense, to have a broad—take a broad look and regulate broadly on all small cash loans, and that would include payday loans, title loans, signature loans, and make sure that very narrow legal requirements cannot be skirted in the way you describe.

Senator REED. Thank you very much.

Mr. Shelton, let me turn to another issue, and that is foreclosure.

The data we have seen are about 4.5 percent of white borrowers lost their homes in the period between '07 to '09; African American communities, 7.9 percent; Latino communities, 7.7 percent, respectively.

And that means that roughly the African American and Latino communities were more than 70 percent more likely to lose their homes to foreclosure during that period.

There are many reasons, many explanations, but what the Fed Reserve and OCC have right now is residual funds from the Independent Foreclosure Review Process.

And how important is it for the Federal Reserve and OCC to ensure that these funds go to States that still have a need, particularly in these communities, and have demonstrated the ability to get the money out to people, not just sit on it and let this problem fester?

Mr. SHELTON. Well, it is crucial.

Again, as we talk about the income gap among African Americans and other racial and ethnic minorities and white Americans in society, we know that we lost our homes at a much, much higher rate, as you indicated in your opening statement.

Certainly, resources that have been sat upon along those lines need to be distributed to very needy families so that they can keep their homes and their family nest eggs.

Even organizations like the NAACP—as we mentioned, we have got over 1,200 membership units throughout the United States. We would be delighted to be helpful in making sure we can identify people that need that kind of assistance and see to it they get those much needed resources.

Senator REED. Thank you very much.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you.

I will ask one more question and then turn it over to Senator Crapo.

Ms. Ekdom, you noted in your testimony that medical issues, or medical debt, is one of the top reasons consumers use your assistance.

Can you describe what you heard and why this information about medical debt may be particularly problematic on a credit report, and what should be done to address these issues?

Ms. EKDOM. The reasons that people come in to see us with medical debt are pretty varied. As I mentioned in my opening testimony, a lot of people coming in have limited income and no savings. So any kind of bump in the road can be a tipping point.

So, for some consumers, it can even be small medical bills that create big issues within their monthly living expenses. We also see clients on the other end of the spectrum, that maybe they are uninsured or the portion that their insurance is not going to cover is significant and they need to figure out a repayment plan.

Most of the consumers that we are working with that have medical debt were not dealing with the original provider. They have all been turned over to collections.

In our work, when we see judgments, most of them are related to medical collections. And if the judgment goes to garnishment, it causes even more issues for the consumer.

Sometimes we see issues related to the billing process that cause issues for consumers.

So they had a medical event happen, and they are receiving invoices in the mail that may say: This is an invoice. You do not need to pay it, and insurance is still pending.

And somewhere along the process, things get messed up. Something does not get paid. And a lot of times consumers find out about it because it is a collection item or they get the notice in the mail that you now have something at collections.

When we are counseling people who are looking at purchasing a home or purchasing a car, sometimes that is when they discover that information. And usually, it is a lender that is referring them, saying, in order to be looked at for this loan, you need to clear up the judgment and collection items.

So those are some of the things that we see.

Chairman JOHNSON. Senator Crapo.

Senator CRAPO. Thank you, Mr. Chairman.

I do have a number of questions for other members of the panel and some more for Mr. Ireland, but I know that we are under a time restraint here. So, if it is OK with you and with the witnesses, I will submit some questions to you if you would be willing to follow up.

I do want to say to all the witnesses; I found your testimony today to be very helpful.

These are very critical issues that we are dealing with, and we need to get it right from all aspects. We do not want to restrict access to credit because we are too tight in asserting protections, but we want to make sure that we have the proper protections in place to protect those who are facing discrimination or other abusive treatment in our credit system. And our financial institutions are a key part of our economy.

And your perspectives have been very helpful. So thank you today.

Chairman JOHNSON. I want to thank all of our witnesses for testifying today and for all their work to improve the consumer marketplace.

This hearing is adjourned.

[Whereupon, at 11:56 a.m., the hearing was adjourned.]

[Prepared statements and additional material supplied for the record follow:]

## PREPARED STATEMENT OF TRAVIS B. PLUNKETT

SENIOR DIRECTOR, FAMILY ECONOMIC STABILITY
THE PEW CHARITABLE TRUSTS

SEPTEMBER 18, 2014

Chairman Johnson, Ranking Member Crapo, and Members of the Committee:

I am pleased to be here with you today to discuss protections in consumer financial markets. As a senior director at the Pew Charitable Trusts, I lead a portfolio of work that rigorously assesses and, where warranted, promotes nonpartisan, evidence-based solutions to improve the safety and transparency of consumer financial markets and the financial health of the American family. We focus on families' ability to borrow and manage their funds safely and wisely, to save for the future and to move up the economic ladder. Included in our work is an extensive body of research examining the current financial condition of diverse families, the effect of employer benefits on household financial security and the connection between financial capital—especially emergency and retirement savings—and economic stability and mobility.

Chairman Johnson, I would like to thank you for holding this important hearing and—as you prepare to leave the U.S. Senate at the end of the year—applaud your strong efforts to ensure that the Nation's financial markets function in an open and fair manner so that consumers and businesses have an opportunity to thrive.

Since Pew launched our safe credit cards project in 2007, we have focused on better understanding household financial needs and experiences, identifying policies that improve consumer outcomes and promoting a marketplace and regulatory environment that allow businesses to innovate and better meet consumer needs. We employ a data-driven approach, working to inform policymakers with a detailed empirical analysis of industry practices and their effects on consumers.[1] Along with the work of a number of organizations, senior Members of Congress from both parties and President Obama, Pew's research on the credit card marketplace contributed to the passage of the Credit Card Accountability, Responsibility, and Disclosure (CARD) Act and the adoption of rules by the Federal Reserve that have effectively implemented this groundbreaking and effective law. A 2013 academic study, authored by professors from New York University's Stem School of Business and the University of Chicago's Booth School of Business, concluded that the CARD Act is saving consumers more than $20 billion annually, with little to no reduction in access to credit.[2] Last October, the Consumer Financial Protection Bureau (CFPB) released a report concluding that the CARD Act had eliminated the deceptive and unfair credit practices it had targeted and that the total cost of credit paid by consumers had declined by 2 percentage points between 2008 and 2012. The CFPB also found that, while the amount of card credit declined during the financial crisis, creditworthy consumers still had access to $2 trillion of credit lines.[3]

Pew's current consumer financial efforts focus on the transaction accounts that Americans rely on every day to manage their finances, including checking accounts, prepaid cards and mobile payments, and on small-dollar loans. Our consumer banking initiative began in 2010 with market research on consumer experiences with checking accounts, analyzing the offerings of the Nation's largest banks. Our work on checking accounts has focused on disclosures, overdraft and dispute resolution policies.

We've also conducted extensive research on general purpose reloadable (GPR) prepaid cards, which are a relatively new consumer financial product that is growing in popularity. In our most recent survey of prepaid card users, Pew found that 5 percent of adults (implying roughly 12 million people) used these prepaid cards at least monthly. Consumers load money onto the cards and are not required to undergo a credit check before purchasing them. These cards are a versatile financial tool

[1] For example, Pew conducted a comprehensive scan of all credit cards offered by dominant card issuers, which found that 100 percent of the products had at least one feature that Federal regulators later deemed to be harmful or deceptive. Just two of these practices—which were later eliminated by the CARD Act—were costing American consumers at least $10 billion per year. The Pew Charitable Trusts, Still Waiting: *"Unfair or Deceptive" Credit Card Practices Continue as Americans Wait for New Reforms to Take Effect* (Oct. 2009), *http: //www.pewtrusts.org/~/media/legacy/uploadedfiles/wwwpewtrustsorg/reports/credit__cards/PewCreditCardsOct09-Finalpdf.pdf.*

[2] Johannes Stroebel, Neale Mahoney, Sumit Agarwal and Souphala Chomsisengphet, *Regulating Consumer Financial Products: Evidence From Credit Cards,* (Aug. 2013), *http://papers.ssm.com/sol3/papers.cfm?abstract__id=2330942.*

[3] The Consumer Financial Protection Bureau, *CARD Act Report,* (Oct. 2013), *http://files.consumerfinance.gov/f/201309__cfpb__card-act-report.pdf.*

for the 10 million households in the United States that lack a checking or savings account; that cannot obtain a credit card because of poor credit histories; and that want to supplement checking or credit card accounts with one dedicated to saving or paying for something without the temptation of buying it on credit. U.S. consumers loaded more than $64 billion onto these cards in 2012, according to the Mercator Advisory Group, up from $56.8 billion in 2011.

The increasing popularity of the cards is good news for consumers who want an alternative to traditional checking or credit accounts—particularly because these cards have become more affordable over the past year and, in many cases, offer lower and fewer fees than basic checking accounts. The bad news, however, is that there are no Federal laws or regulations that directly protect consumers from hidden fees, liability for unauthorized transactions similar to Regulation E, or insurance against loss of funds in the event of an issuing institution's failure. Nor are there Federal rules requiring these cards to provide disclosures of fees, terms, conditions, or dispute resolution practices. Federal Reserve Board checking account rules that require consumers to affirmatively opt in to overdraft service also do not apply to GPR cards, and there are no rules preventing other credit products such as a line of credit from being attached to prepaid cards. These omissions are troubling because Pew's research shows that most GPR prepaid cardholders do not want overdraft features to be available on their cards. Instead, they want a safe and useful financial tool that helps them maintain financial discipline.

Considering the growing use of these cards as an alternative or complementary product to the traditional checking account, it is important for consumers to be able to keep the funds on their GPR prepaid cards secure and perform transactions without risk of losing money or going into debt. Though our research finds that the providers are competing for business by lowering some fees and are facing pressure from new entrants in the market, including retail banks and established financial services companies, current consumer protection measures clearly lag behind similar products such as debit cards linked to checking accounts.

With regard to checking accounts, Pew's most recent research shows that the marketplace has improved in some respects, with more banks and credit unions using a summary document to disclose key checking account fees, terms, and conditions. In 2011 after analyzing account information from the 10 largest banks and finding that the median length of the disclosures was 111 pages we developed a summary disclosure "box," consumer-tested and promoted its adoption among financial institutions. As of September 2014, 20 banks, including 11 of the 12 largest, and 8 credit unions, including the three largest, have worked directly with Pew to adopt this model document. Additionally, the box appears to be evolving into an industry standard, with many institutions adopting a box without collaborating directly with Pew. A sample of the Nation's 50 largest banks found that the number with a disclosure box adhering to Pew's recommendations increased from 23 percent in 2013 to 54 percent in 2014.

We've also studied the disclosures that are included with the purchase of general purpose reloadable (GPR) prepaid cards. Currently, most consumers shop for prepaid cards in a store and only have access to the complete fees, terms and conditions for a card after purchasing it and opening the card packaging. This makes it impossible for these consumers to comparison-shop for the card that best meets their needs prior to purchase. Based on the current "clamshell" packaging, we were able to develop a disclosure document that consumers could open in a retail establishment to help them choose the card that will best meet their needs. Since a GPR prepaid card can be used as a replacement for a checking account, we developed this prepaid disclosure box based on our checking account model, allowing consumers to not only comparison shop among prepaid cards, but also making it easy to compare these products to checking accounts.

JPMorgan Chase was the first company to adopt a prepaid disclosure box, for its Liquid card. We have also worked with Visa on a new designation that identifies safe cards that meet significant consumer protection standards. To receive the designation, cards must have the following features: no overdraft charges, a simplified fee structure with a flat monthly fee; clear cost disclosures; deposit insurance by the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Administration (NCUA); and no customer liability if the card is lost or stolen. Cards must also be in compliance with most aspects of Regulation E of the Electronic Fund Transfer Act. Cards that qualify will receive a special Visa insignia that will be visible on card packaging and materials, allowing consumers to identify and easily select them.

We also continue to focus on overdraft policies as part of our research and advocacy on checking accounts. Previous Pew research examining the financial stability of low-income Hispanic households in the Los Angeles area during the Great Reces-

sion showed that more of these families had a checking account involuntarily closed—or closed the account themselves—because of hidden fees (31 percent) than because of a reduced income (27 percent). Our research also showed that families with a checking account weathered economic problems better than those without and were able to save more money.

Since research shows that overdraft policies are a large factor in causing consumers to leave the banking system, Pew has focused on working with financial institutions to reform bank overdraft policies and practices. For example, we provided advice to Bank of America as they developed their Safe Balance account, a new product that does not include overdraft as an option. Effective marketing by Bank of America will be the key to ensuring that large numbers of consumers are aware of and can choose this account option.

Another area of our focus is small-dollar credit. Pew's small-dollar loans project focuses on payday, auto title, and traditional installment loans, as well as emerging alternatives to these products. In 2011, when Pew began work in this area, we shared the concerns that some policymakers and other stakeholders expressed that the small-dollar loan market showed signs of harmful practices and market failures. Yet research on the often-complicated motivations behind consumer use of these types of products was limited, as was data about borrower experiences and attitudes. This lack of fundamental knowledge made it difficult to assess the potential effectiveness of policy solutions. Therefore, Pew embarked on an extensive research project. We completed the first-ever nationally representative survey of payday loan borrowers, and conducted an exhaustive analysis of regulatory data and academic papers.

Pew's research, which has been published in our *Payday Lending in America* series,[4] demonstrates that there are serious failures in the small-dollar loan market and shows how new policies can help lenders provide access to credit that leads to better consumer outcomes. Key findings of our work include:

- 12 million Americans take out payday loans each year, spending approximately $7.4 billion annually. The average loan is $375.
- A payday loan is characterized as a short-term solution for unexpected expenses, but the reality is different.
  - The average borrower is in debt for 5 months during the year, spending $520 in interest to repeatedly reborrow the loan.
  - 69 percent of first-time borrowers use the loan for recurring bills (including rent or utilities), while just 16 percent deal with an unexpected expense such as a car repair.
- Payday loans are unaffordable.
  - Only 1 in 7 borrowers can afford the more than $400 needed, on average, to pay off the full amount of these lump-sum repayment loans by their next payday.
  - Most borrowers can afford to put no more than 5 percent of their paycheck toward loan payment and still be able to cover basic expenses. Yet in the 35 States that allow lump sum payday loans, repayment requires about one-third of an average borrower's paycheck.
- Most payday loan borrowers have trouble meeting monthly expenses at least half of the time.
- 41 percent of borrowers have needed a cash infusion, such as a tax refund or help from family or friends, to pay off a payday loan.
- Payday loans do not eliminate overdraft risk. Most borrowers also overdraw their bank accounts.
- A majority of borrowers say payday loans take advantage of them. A majority also say they provide relief.
- Borrowers want changes to payday loans.
  - By almost a 3–1 ratio, borrowers favor more regulation of the loans.
  - 8 in 10 borrowers favor a requirement that payments take up only a small amount of each paycheck.
  - 9 in 10 favor allowing borrowers to pay back the loans in installments.

**CFPB Efforts to Date on Transaction Accounts and Small-Dollar Loans**

The CFPB is required by law to ensure a safe and transparent consumer financial marketplace, which includes mandates to address unfair, deceptive and abusive

[4] The Pew Charitable Trusts, *Payday Lending in America, www.pewtrusts.org/small-loans.*

practices and to ensure consumer access to financial services. It is empowered under the Dodd-Frank Act with rulemaking, enforcement and supervision powers to achieve these goals, as well as a mandate to collect and respond to individual complaints about products and services and to engage and educate consumers. Significantly, it has authority to oversee the business conduct of virtually all depository institutions and designated large nonbank financial services companies in a uniform manner. This allows the Bureau to write consistent rules that cover similar products offered by different types of financial services providers—such as prepaid cards or small-dollar loans. This approach has benefits for both financial services companies and their customers, ensuring a level regulatory playing field for industry and equivalent protections for consumers, no matter what type of company they seek out or product they use.

*Research*

The CFPB is also required under the Dodd-Frank Act to put research and analysis at the center of its work and to carefully balance the interests of industry and consumers. For example, it is required to monitor consumer financial markets to assess risks to consumers and the impact of existing regulations on financial institutions and small businesses in order to reduce burdensome requirements and minimize the impact of new rules. Since it opened its doors over 3 years ago the CFPB has published many research papers that document activity that is occurring in various consumer product markets and provide an evidence base-along with the work of research-oriented institutions like Pew—for any regulatory actions the Bureau proposes to take. For example, the CFPB found in its July, 2014 Data Point that 8 percent of customers incur 75 percent of overdraft fees.[5] Similarly, Pew found in a recent survey of consumers who had overdrawn their checking account with a debit card that 7.3 percent of customers are responsible for 49 percent of the overdraft fees charged.[6] This data demonstrate that consumers who repeatedly overdraft are not only providing a substantial part of overdraft revenue but are also sustaining very high aggregate fees, putting their financial security at risk.

The CFPB also found in this Data Point that the propensity to overdraft is higher for younger account holders, with 10.7 percent of the 18–25 year old age group having more than 10 overdrafts per year. Pew's survey research found that a 25-year-old is 133 percent more likely to pay an overdraft penalty fee than a 65 year-old. The CFPB's Data Point also concluded that most consumers who overdraft bring their accounts into the black quickly, with more than half achieving a positive balance within 3 days and 76 percent within 1 week. Correspondingly, Pew's research has found that most consumers who overdraft had negative balances for four or fewer days. Finally, the CFPB found that the median size of debit card transactions that result in an overdraft fee is $24 and that the median fee is $34. If put in terms of an annualized loan interest rate, a typical overdraft carries a 17,000 percent APR. Based on this data, we can conclude that overdraft programs offer expensive, very short-term loans that are disproportionately used by younger customers who are new to the banking system.

In the case of small-dollar lending, the CFPB has taken a methodical approach to studying the market. In April of last year, the Bureau published findings of a year-long study of usage data obtained through its supervision of conventional and bank deposit advance payday loan providers. The Bureau found that the structure of payday loans created substantial risk of harm to consumers. This is because payday loans require borrowers to pay several hundred dollars out of their next paycheck to lenders that have a priority payment position, allowing them to reach directly into borrower checking accounts before other bills are paid. The Bureau found that a sizable share of payday loan users conduct transactions on a long-term basis (two-thirds of borrowers use seven or more loans per year, mostly in rapid succession), suggesting that they are unable to fully repay the loan and pay other expenses without taking out a new loan shortly thereafter.

In March of this year, the Bureau followed up with a second report that revealed new usage data, showing for example that the vast majority (80 percent) of payday loans originate within 2 weeks of a previous loan, suggesting how important consecutive repeat usage is to the payday loan business model. With these studies, the CFPB used its unique access to market data to release definitive research that con-

[5] The Consumer Financial Protection Bureau, Data Point: Checking Account Overdraft, (July 2014), *http://files.consumerfinance.gov/f/201407__cfpbreport__data-point__overdrafts.pdf.*

[6] The Pew Charitable Trusts, Overdrawn: Consumer Experiences with Overdraft, (June 2014), *http://www.pewtrusts.org/~/media/Assets/2014/06/26/Safe__Checking__Overdraft__Survey__Report.pdf.*

firms findings by Pew and other researchers,[7] that the vast majority of payday loans (and therefore lender revenue) result from long-term, repeat usage. This lending is often predicated on leveraging access to the borrower's checking account to collect payment on loans that many cannot afford, leading to repeat borrowing to make ends meet.

*Enforcement and Rulemaking*

The CFPB has said that it will propose rules this year on prepaid cards. In 2012, the CFPB released an advanced notice of proposed rulemaking, asking about significant consumer protection issues for consumers using these cards, including disclosure, unauthorized transactions and product features, specifically overdraft or credit linked to these cards.[8]

The CFPB has also stated its intention to issue rules governing the payday and small-dollar loans market. In November of 2013, the Bureau took its first enforcement action against a payday lender that was allegedly engaging in inappropriate collections activity.[9] More recently, the Bureau sanctioned another lender for "pushing payday borrowers into a cycle of debt."[10] Notably, the Bureau found that the company in question had "created and leveraged an artificial sense of urgency to induce delinquent borrowers with a demonstrated inability to repay their existing loan to take out a new [company] loan with accompanying fees." This, the CFPB concluded, took unreasonable advantage of consumers' inability to protect themselves, and was an abusive practice under applicable law.

**Problems that Remain in the Transaction Account and Small-Dollar Loan Markets**

Although much progress has been made by Congress and the CFPB in recent years in addressing problems in consumer financial markets, a great deal of research by Pew and the Bureau itself demonstrate there are still significant safety and transparency problems that need to be addressed.

*Checking Accounts and Prepaid Cards*

One area of particular concern regarding checking accounts is consumer confusion about whether they have opted in for overdraft coverage when using their debit card for a purchase or at an ATM. In 2010, the Federal Reserve implemented new rules requiring that consumers affirmatively choose to "opt in" to overdraft coverage, but our most recent survey of checking account consumers who had incurred an overdraft in the last year showed that over half were not aware that they had chosen coverage.[11]

Unfortunately, this situation has not improved. We asked the same question in a 2012 survey of consumers who overdrafted and got a similar result. The CFPB's research into overdraft further elucidated the problems with this market. Their 2013 "Study of Overdraft Programs" found that of opt-in rates varied dramatically for the banks they examined, ranging from less than 10 to more than 40 percent. The CFPB study suggests that the manner in which each institution describes or sells overdraft options to new customers varies considerably. We have urged the CFPB to write new rules requiring financial institutions to provide account holders with clear, comprehensive, and uniform pricing information for all available overdraft options so that each consumer can make an informed decision about this product. This could be accomplished by modifying the Federal Reserve's "safe harbor" opt-in form to ensure that consumers understand all of their options and the implications of their choices.

Furthermore, "high-to-low" transaction reordering remains a serious concern. This involves financial institutions manipulating the order that transactions post to an account in order to deplete the balance more quickly, leading to more overdrafts and additional fees.[12] In its 2013 study, the CFPB found that debit posting orders vary

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[7] Robert De Young and Ronnie J. Phillips, *Payday Loan Pricing,* (Federal Reserve Bank of Kansas City, Economic Research Department, Feb. 2009), 7, *http://www.kansascityfed.org/PUBLICAT/RESWKPAP/PDF/rwp09-07.pdf.*

[8] The Consumer Financial Protection Bureau *Advanced Notice of Proposed Rulemaking,* (May 2012) *http://files.consumerfinance.gov/f/201205_cfpb_GPRcardsANPR.pdf.*

[9] See *http://www.consumerfinance.gov/blog/our-first-enforcement-action-against-a-payday-lender/.*

[10] See *http://www.consumerfinance.gov/newsroom/cfpb-takes-action-against-ace-cash-express-for-pushing-payday-borrowers-into-cycle-of-debt/.*

[11] The Pew Charitable Trusts, *Overdrawn,* 5.

[12] For a data visualization of this practice, see *http://www.pewtrusts.org/en/multimedia/data-visualizations/2014/checksand-balances;* The Pew Charitable Trusts, *Checks and Balances* (Apr. 2014), 21. *http://www.pewtrusts.org/~/media/Assets/2014/04/09/ChecksandBalancesReport2014.pdf.*

considerably from institution to institution and, in fact, no two banks studied use the same approach.

Pew's research shows that somewhat fewer banks are engaging in high-to-low transaction reordering in the last year. Our latest analysis found a small decrease in the proportion of banks that reorder transactions from high to low, from 54 percent in our 2013 report to 49 percent in 2014. While this indicates some progress, it's important to note that all of the banks that we surveyed state in their disclosures that they retain the right to change their practices at any time. Pew has urged the CFPB to write new overdraft rules that prohibit the reordering of transactions to maximize fees, in favor of posting deposits in a fully disclosed, objective, and neutral manner. Without a rule forbidding this practice, even banks that no longer reorder transactions have the ability to reinstate this practice at any time. Given the extremely high cost of overdrafts described above, we have also urged the Bureau to require all financial institutions to make penalty fees reasonable and proportional to a bank's costs in covering the overdraft transaction.

General purpose reloadable cards are relatively new financial products. As a result, they do not carry the same consumer protection requirements as checking accounts, despite the similarity in how they can, and are being, used. Comparing the data from our two market scans published in 2013 and 2014 we have observed that the fee structure of these cards is shifting to more closely resemble checking accounts.[13] Interchange fees for each transaction are not as common as for debit or credit cards, and monthly fees, like those associated with a checking account, are more prevalent.

Additionally, our survey research finds that a primary reason consumers use GPR cards is to avoid unexpected or hidden fees, like overdraft, associated with traditional checking accounts.[14] We found that 66 percent of prepaid consumers use the cards so that they do not spend more money than they actually have.[15] In fact, 63 percent report having paid checking account overdraft fees and 41 percent say they have closed or lost a checking account because of these fees.[16] In our 2014 market scan we found that only one card in the marketplace offers overdraft, demonstrating that this feature is not necessary to make the product financially viable. For these reasons, we have urged the CFPB to prohibit overdraft or other automated or linked lines of credit on GPR cards. In addition, we have recommended that the Bureau extend important protections under The Electronic Fund Transfer Act (EFTA) that apply to checking accounts to prepaid cards. These Regulation E protections include requirements that financial institutions: investigate unauthorized transaction claims, place limitations on the liability of consumers, credit the account for the amount of a disputed transaction while the dispute is pending, and provide consumers access to periodic statements and past transaction information. Given the substitutability of these products it makes sense for consumers to expect and receive similar protections.

Another important protection for consumers is the requirement that funds on GPR prepaid cards be FDIC insured. Currently, while most cards are covered by Federal deposit insurance, nonbank prepaid card providers that do not carry a Visa or MasterCard logo are not required to make sure that these funds are federally insured should the company go out of business. Rather, the card provider can choose to comply with State money transmitter laws, which do not offer the same level of protection for consumers as Federal insurance. As stated above, the CFPB has broad authority to ensure that similar products are regulated consistently. The Bureau should require that all funds loaded onto prepaid cards are covered by this insurance.

Both checking accounts and prepaid cards need clear, concise, and easy-to-understand disclosures. This information should be accessible both online and when consumers purchase the cards at bank or credit union branches (for checking accounts) and retail locations (for prepaid cards) to enable the consumer to shop among different providers. While we applaud the many banks and credit unions that have voluntarily adopted clear checking and prepaid card disclosures, consumers will only have access to uniform information that allows them to easily compare the terms

[13] The Pew Charitable Trusts, *Consumers Continue to Load Up on Prepaid Cards* (Feb. 2014), 2. *http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs__assets/2014/PrepaidCardsStillLoadedReportpdf.pdf.*

[14] The Pew Charitable Trusts, *Why Americans Use Prepaid Cards* (Feb. 2014), 8. *http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs__assets/2014/PrepaidCardsSurveyReportpdf.pdf.*

[15] *Ibid.,* 14.

[16] *Ibid.,* 8.

and condition for all checking account and prepaid providers if the CFPB requires it.

Finally, in December 2013, the CFPB's report, "Arbitration Study Preliminary Results," found that larger banks tend to include mandatory arbitration clauses in their consumer checking contracts, while mid-sized and smaller banks and credit unions do not. Interestingly, the Bureau estimates that only about 8 percent of banks include arbitration clauses in their checking account contracts but that these clauses cover 44 percent of insured deposits. Mandatory pre-dispute binding arbitration clauses present several risks. They prevent consumers from choosing the option of challenging unfair and deceptive practices or other legal violations in court, potentially allowing some abusive practices to spread without legal or public scrutiny. They also deprive consumers of important legal remedies—including a jury trial—curtail judicial civil procedures and due process protections, such as the ability to appeal a decision, and raise serious conflict-of-interest concerns if the companies that provide arbitration services provide repeat business to the financial institutions that mandate it.

In Pew's 2012 report, "Banking on Arbitration: Big Banks, Consumers, and Checking Account Dispute Resolution," we also found that the larger the financial institution the more likely an account agreement contains a clause requiring mandatory binding arbitration. We determined that financial institutions that require arbitration are much more likely to ban class-action lawsuits. In our most recent "Checks and Balances" report, we found that more banks have added class-action and jury trial waivers along with mandatory binding arbitration clauses to their account agreements, all of which limit a consumer's options during a dispute.[17] In a separate report on prepaid cards, we found that 51 of the 66 cards studied (77 percent) have contractual clauses that require cardholders to submit to mandatory binding arbitration. Fifty cards (76 percent) also disclose that cardholders are not permitted to participate in class action litigation involving that card.[18] As a result of this research, Pew has recommended to the CFPB that mandatory arbitration clauses in checking accounts and prepaid card contracts be prohibited.

*Small-Dollar Loans*

As you know, the CFPB has the power to regulate some nonbank financial entities, such as payday lenders, which is the first time these institutions will be under Federal oversight. Though the Bureau has not yet issued rules to govern this market, it has stated its concern over the potential harms in this market, and its intention to use its powers to address those harms. Similarly, after several years of intensive study, Pew has concluded that the CFPB must issue broad new rules to govern the entire small-dollar loan market.

Pew's research conclusively shows that payday loans are unaffordable for most borrowers. The loans require payments equal to one-third of a typical borrower's income, far exceeding most customers' ability to repay and meet other financial obligations without quickly borrowing again. Payday lenders have a unique legal power to withdraw payment directly from borrowers' checking accounts on their next payday, prompting those without enough money left for rent or other bills to return to the lenders, repay the loans, and pay an interest-only fee to quickly re-borrow, resetting the due date to the next payday. This extraordinary form of loan collateral allows lenders to thrive even as they make loans to those who cannot afford them. The average borrower is in debt for nearly half the year, and the vast majority of lender revenue comes from those who borrow consecutively. Payday lenders achieve profitability only when the average borrower is in debt for months, even though the product is promoted as a short-term bridge to the next payday. These facts demonstrate a significant market failure.

Based on our research findings on small-dollar loans we developed policy recommendations urging the CFPB to:[19]

- **Ensure that the borrower has the ability to repay the loan as structured.** The key to achieving this goal will be to require lenders to more carefully consider a borrower's ability to repay the loan, as structured, without having to borrow again to make ends meet. Payments on a payday loan currently take more than one-third of the borrower's next paycheck, and that is an unreasonable amount. Pew's research provides a clear benchmark for identifying a more reasonable payment—for most borrowers, monthly payments above 5 per-

[17] The Pew Charitable Trusts, *Checks and Balances, 2014 Update.*

[18] The Pew Charitable Trusts, *Consumers Continue to Load Up on Prepaid Cards.*

[19] The Pew Charitable Trusts, *Payday Lending in America: Policy Solutions* (Oct. 2013), 44–47. *http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2013/PewPaydayPolicySolutionsOct2013pdf.pdf.*

cent of gross monthly income are unaffordable. The CFPB should treat loans requiring payments above this threshold as unreasonable unless the lender can clearly demonstrate, through proper underwriting, that the borrower can afford more. With such a clear benchmark in place, the CFPB could eliminate a broad array of harms while giving honest lenders a clear and low-cost way of making safer credit available.

- **Spread loan costs evenly over the life of the loan.** Front-loading of fees and interest creates incentives for lenders to refinance loans and extend overall indebtedness (sometimes called loan flipping). Any fees should be paid evenly over the life of the loan. Sensible rules to limit lender incentives for loan flipping should be part of any small-dollar loan rule.
- **Guard against harmful repayment or collections practices.** Borrowers need stronger rights to protect their checking accounts against unscrupulous lenders or debt collectors, and banks should be held more accountable for honoring their customers' requests to stop payments or cancel automatic electronic withdrawals. Sensible safeguards can preserve the integrity of the electronic payments system and help honest lenders make affordable loans to those who need them.
- **Require concise disclosures of periodic and total costs.** Consumers need accurate information to make good decisions.
- **Continue to set maximum allowable charges.** Research shows loan markets serving those with poor credit histories are not price competitive.

Pew has also recommended that policymakers protect against excessively long loan terms and have developed a formula based on borrower income and the size of the loan to prevent this costly practice. The formula can be included in laws or regulations in conjunction with other legal requirements, or can be used as a benchmark by financial institution examiners.

Pew has shown empirically that enacting such measures can yield much better consumer outcomes with almost no loss in consumer access to credit, in a way that works for lenders.[20] Access to credit remains virtually unchanged after a recent legal reform in Colorado, but borrowers spend less, and payments are far more affordable.

**Conclusion**

The CFPB, which was created in the wake of the financial crisis to make consumer financial markets safe, efficient and transparent, has a crucial role to play in the next few years in enhancing consumer protections for transaction accounts and small-dollar loans. The CFPB clearly has the authority and jurisdiction it needs to effectively and fairly address the serious problems I have identified today. It has also demonstrated that it will take a methodical approach to understand and address problems in these markets. In particular, the CFPB's research and initial enforcement actions on transaction accounts and small-dollar loans have been thorough and deliberate. These important early moves provide a basis for the CFPB to propose effective new rules in the months ahead that eliminate unfair, deceptive or abusive practices, while also allowing scrupulous financial services companies a fair chance at serving consumers profitably. It is now up to the CFPB to seize this historic opportunity. We applaud the Committee for its attention to and oversight of the CFPB's work in these areas and urge you to continue these efforts to ensure that the Bureau acts in a timely, effective and balanced manner.

Thank you for the opportunity for Pew to participate in this discussion. My colleagues at The Pew Charitable Trusts and I would welcome the opportunity for further conversations at any time.

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## PREPARED STATEMENT OF SHERI EKDOM

DIRECTOR, CENTER FOR FINANCIAL RESOURCES, LUTHERAN SOCIAL SERVICES OF SOUTH DAKOTA

SEPTEMBER 18, 2014

Senator Johnson, before I begin my testimony, on behalf of Lutheran Social Services of South Dakota, I would like to recognize your upcoming retirement, your work

[20] See The Pew Charitable Trusts, *Payday Lending in America.* The report includes a case study of Colorado's 2010 payday loan reform, which required all payday loans to become 6-month installment loans and included many features that approximate Pew's policy recommendations.

as a South Dakota legislator early on as you began your career, and now nearly 30 years of service as a Congressman and Senator from South Dakota. We thank you for your tireless efforts—especially your dedication to those underserved populations who have limited resources and means. Over the years, you allowed their voices to be heard and their lives improved. Your work has made a difference and we thank you for that.

Chairman Johnson, Ranking Member Crapo, and Members of the Committee:

Thank you for inviting me to testify this morning on the topic of assessing and enhancing protections in consumer financial services. For the past 22 years, I have worked in the financial counseling and education industry. I am currently the director of the Center for Financial Resources at Lutheran Social Services of South Dakota.

LSS has provided financial counseling and education services since 1984. Our agency is a member of the National Foundation for Credit Counseling, a HUD-approved housing agency, accredited by the Council on Accreditation (COA), and an approved provider of bankruptcy counseling and education under the Department of Justice Executive Office of U.S. Trustees.

LSS provides financial counseling and education designed to help consumers take control of their financial future. Services include: financial management and budgeting sessions, debt management programs, bankruptcy counseling and education, and credit report and student loan consultations. Housing counseling and education is available to renters, first-time home buyers, homeowners and those seeking to prevent or resolve housing delinquency or default issues. Since long-term financial success often means making deliberate changes to priorities and lifestyles, LSS offers a full range of education products on topics to promote financial literacy and complement financial counseling and debt management programs.

Products offered are both reactive, as in the case of working through a financial crisis, and proactive, for those seeking to prevent money problems or plan ahead for their future financial goals.

At the Center for Financial Resources, we work with people from all age and income levels—although the majority of clients seen (69 percent) fall in the low-to-moderate income (LMI) range. Client ages for counseling sessions for last year ranged from 18 to 92, with the majority of our clients falling in the 31- to 45-year-old age bracket.

When people come into our office, the most common “primary causes of financial problems” include poor money management, reduced income, separation or divorce, excessive spending, unemployment and medical issues.

**A number of factors put many South Dakotans at risk for a financial crisis:**

- 54 percent of South Dakota households have difficulty covering their expenses and paying bills.
- 17 percent of South Dakota households spent more than they made during the last year, even excluding major purchases like a car.
- 57 percent of individuals don’t have an emergency fund in case of unexpected expenses or a job loss.
- 32 percent have borrowed from a nonbank source such as a payday loan, title loan, or pawn shop.[1]
- 22 percent of South Dakota households are under banked—they have a bank account but routinely use nonbank services such check-cashing services, payday lenders, and title loans.
- 46 percent of South Dakotans have sub-prime credit ratings—without good credit, consumers pay higher interest rates than other consumers on everything from credit cards to car loans to mortgages
- The average South Dakotan owes $6,666 in credit card debt.[2]
- South Dakota ranks 48th in the Nation for the average weekly wages earned by workers.[3]
- 6.9 percent of South Dakotans are unemployed or underemployed. In addition to those people who are counted in the official unemployment rate, this also in-

[1] FINRA Investor Education Foundation, National Financial Capability Study. (2012). *http://www.usfinancialcapability.org/about.php.*

[2] Corporation for Enterprise Development, Assets & Opportunity Scorecard. (2014). *http://scorecard.assetsandopportunity.org/2014/state/sd.*

[3] U.S. Department of Labor Bureau of Labor Statistics, Covered Establishments, Employment, and Wages by State, Fourth Quarter 2013. *http://www.bls.gov/news.release/cewqtr.t03.htm.*

cludes people who have given up looking for work, or who want to work full time but have only been able to find part-time work.[4]

- South Dakota ranks first in the Nation for the percentage of workers who hold more than one job (8.9 percent).[5]

South Dakota is home to nine Indian reservations and has one of the highest concentrations of Native Americans at the State level. The latest Census figures report that Native Americans or Alaska Natives compose just over 10 percent of the State's population, the majority of whom reside on reservations.

The challenges faced by residents of South Dakota reservations have been well documented. Limited employment opportunities, generational poverty, and geographic isolation make it difficult for families to become financially stable. Despite the tribes' and State's economic development efforts, the people living on these reservations still have significantly lower income and home ownership rates, and higher poverty rates than the rest of South Dakota. Although numerous reservation communities across the country suffer from high rates of poverty and unemployment, five counties in South Dakota in which reservations are located rank in the top 25 counties with the highest poverty rates for the entire United States. The overall poverty rate in the five counties ranges from 39.2 percent to 47.4 percent, compared to the State poverty rate of 13.6 percent.[6] Of the financial counseling clients we have seen on reservation communities, most have been unbanked. This makes them susceptible to predatory products such as payday loans and title loans.

**The following issues describe some of the most significant financial challenges we see in our work:**

- Low wages and underemployment remain significant issues for South Dakotans.
  - The majority of clients seeking assistance for financial counseling are insolvent (their income does not cover their living expenses). Clients coming into our office have high debt levels with little or no savings. For families living paycheck to paycheck, this combination leaves them lacking the means to deal with financial emergencies and limits access to low-cost loans or financial products.
  - The flow of needed credit to credit-worthy home buyers has tightened as traditional banks, both large and small, navigate new regulator expectations under Dodd-Frank.
- There are many individuals that do not understand the ramifications of using short-term or payday loans as an attempt to resolve long-term issues. The individuals could benefit from education on the consequences if misuse of the loans occurs and discussion of other options to prevent a similar financial crisis in the future.
  - About 13 percent of households we counsel struggle with payday loans:
  - 55 percent of these clients had 2 or more payday loans; 20 percent had four or more payday loans
  - For clients with 7 or more payday loans, the average balance per loan was $758
  - Annual interest rates from 100 percent to 400 percent can compound these payday loan debts to unmanageable levels.
- Low-income housing options remain scarce.
  - Since the demand for housing assistance often exceeds the limited resources available to HUD and the local housing agencies, long waiting periods are common and South Dakota is no exception with 6,000 people on waiting lists. On average, those seeking rental assistance can expect to remain on a waiting list for three to 5 years. The lack of safe, affordable housing is particularly severe on Native American reservations.
  - Landlord-tenant issues are common. We receive calls daily from consumers with questions about pending evictions, confusion on lease issues and fair housing issues. Many times we see low- to moderate-income individuals have

[4] U.S. Department of Labor Bureau of Labor Statistics, Alternative Measures of Labor Underutilization for States, Third Quarter of 2013 through Second Quarter of 2014 Averages. *http://www.bls.gov/lau/stalt.htm.*

[5] U.S. Department of Labor Bureau of Labor Statistics, Multiple Job Holding in States in 2013, Monthly Labor Review, August 2014.

[6] U.S. Census Bureau, Small Area Income and Poverty Estimates, 2012 Release. *http://www.census.gov/did/www/saipe/data/highlights/2012.html.*

fewer resources available to stand up to unfair practices or have a lack of understanding of their rights or responsibilities.

- Medical debt—medical issues and medical debt are one of the top reasons consumers seek our assistance.
  - Consumers may have trouble navigating the medical billing process (*i.e.,* when has insurance or other coverage paid—when are they responsible).
  - One medical "event" may generate multiple bills from multiple providers; invoices may be received for many months before the billing is complete.
- Debt collection—consumers are quite often afraid and intimidated by tactics used to collect payments; many are unsure how to verify/dispute collection items; many don't understand debt/divorce situations, or the risks and responsibilities of co-signing a loan.
- Credit reporting—many LMI consumers seek assistance on how to build a credit report; how to improve their credit score; how to obtain free reports and how to insure accurate information is on the reports; some fall prey to credit repair scams that do little more than dispute accurate, negative information and charge a high fee.
- Many consumers are ill prepared for retirement—36 percent of people in the United States have no retirement savings; this includes 26 percent of adults between the ages of 50 and 64—one of the most crucial age groups for retirement planning and saving.[7]
- We continue to see consumers with high debt levels. The average client coming to see us with debt-related issues owes 10 creditors $28,227 in unsecured debt. Student loan debt, now the second-largest form of consumer debt and growing, is also an area of concern for many consumers and an area that seems to be garnering significant national attention as we seek solutions for over-extended borrowers.

The Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission Web sites are helpful in our work as we strive to protect consumers by sharing educational tools and keeping us abreast of changes within the consumer protection arena. Asking consumers to "tell their story" and tracking consumer complaints positions the CFPB to quickly identify trends and respond appropriately. We have referred a few clients directly to the CFPB with housing complaints; they were pleased with the responsiveness the Bureau and indicated they felt "heard."

The CFBP could assist us further in our work by making referrals to or partnering with community-based, State and Federal resources poised to help consumers deal with their financial issues to ensure a better chance of success. By continuing to provide links and information on their Web site such as "How to Choose a Credit Counselor" or "How to Locate a Housing Counselor," we can insure that as people look for ways to stabilize or improve their financial situation they are aware of help that is available to them. It also empowers clients to self-select and be armed with the proper questions so they receive the help they need from a trusted source.

Having provided some context on the issues we see consumers dealing with on a daily basis, I would offer the following recommendations to enhance financial protections related to consumer financial services:

**1. Limit the number of short-term loans consumers may access at one time**

We recognize there are situations when consumers need access to small dollar credit; the trouble typically comes when consumers have multiple short-term loans at one time that exceed their ability for repayment. With the wide availability of online options, it would seem that a limitation on multiple loans would need to come from a Federal level.

It may also be worth considering a requirement for short-term lenders to provide customers with information on available financial education services from a neutral third party that is not selling the financial product.

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[7] Indexed Annuity Leadership Council, New Study Shows One-third of Americans have Zero Retirement Savings, Why? August 22, 2014. *http://indexedannuitiesinsights.com/new-study-shows-one-third-of-americans-have-zero-retirement-savings-why/.*

**2. Support and promote community-based financial education (Assist with incentives to encourage attendance and discourage conflicts of interest related to providing the education)**

We know that education works! For example, a recent study suggests that pre-purchase financial counseling may reduce, by an average of 29 percent, the likelihood of a first-time home buyer becoming seriously delinquent.[8]

- Most of the LMI consumers that attend a pre-purchase class initially register as they need to complete the class in order to receive a certificate of completion that may allow them to qualify for various down payment or closing cost assistance programs. This may be the "carrot" that prompted them to register. We need to help consumers understand the "what is in it for me" as we seek to increase financial responsibility and empower consumers to take control of their finances. Whether we are training youth on managing money or becoming a first-time renter, or assisting consumers in understanding how to build a better credit record, incentives that encourage consumers who may not otherwise attend a class to show up may ultimately not only increase their financial knowledge but their financial situations.
- Although education is often called the gateway to success, many are hesitant to take that first step. If you are unaware of options available, you may not be able to see the value that financial literacy training can provide. Incentives along with education sessions may open the door for individuals to gain awareness, discuss their issues and proactively learn lessons that may otherwise be taught as the hard and unforgiving consequences of money management mistakes (*i.e.,* evictions, repossessions, NSF fees, *etc.*).
- Our issue today is not a lack of good, quality accurate education materials; our issue is getting that information into the hands of consumers in a format they desire and that they can understand and digest. Just because we "build it"—does not mean they will come. We need to determine methods and motivations so people will hear the information that can change their financial futures.
- Insuring that consumers receive education prior to some of the largest purchases in life (*i.e.,* homes, cars, student loans, *etc.*), from a neutral third party that is not selling the financial product, also ensures that consumers are able to make decisions about big-ticket items fully educated and without the pressure of any sales tactics.

Thank you for the opportunity to testify.

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## PREPARED STATEMENT OF OLIVER I. IRELAND

PARTNER, MORRISON & FOERSTER

SEPTEMBER 18, 2014

Chairman Johnson, Members of the Committee, it is an honor to be here today. My name is Oliver Ireland. I am a partner in the Financial Services practice at Morrison & Foerster here in Washington D.C. I have over 40 years of experience working as a lawyer on financial services issues. I spent 26 years with the Federal Reserve System, including 15 years as an Associate General Counsel at the Board in Washington where I worked on issues ranging from writing rules to protect consumers, to establishing policies and writing rules to reduce systemic risk in the financial system. I have 14 years' experience as a private sector attorney helping providers of financial products and services to navigate the financial regulatory system.

I understand that this may be Chairman Johnson's last hearing on consumer issues as Chairman of this Committee and as Senator from South Dakota. On behalf of the financial services community I want to start by thanking Chairman Johnson for his work as a Member of this Committee and as its Chairman. Financial services issues are complex and usually controversial. At the same time they are critical to American households. Chairman Johnson, we all owe you a debt of gratitude.

I am here today to address the State of the market for consumer financial products and services in the wake of a severe financial crisis where consumer household mortgages played a key role, and in the wake of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") which was designed to address many of the problems related to the financial crisis. A key component of the Dodd-

[8] Tsien, Freddie Mac, Executive Perspectives-Insights on Housing Finance, Pre-purchase Counseling is Getting Better all the Time, April 15, 2013. *http://www.freddiemac.com/news/blog/robert_tsien/20130415_getting_better.html.*

Frank Act was the creation of the Consumer Financial Protection Bureau ("CFPB"), but the Dodd-Frank Act also specifically addressed standards for mortgages in a separate Title. In addition, the Credit CARD Act of 2009, enacted shortly after the peak of the financial crisis, has also played an important role in shaping the current market for consumer financial products and services.

There is no denying that problems in the market for consumer financial products and services led to the enactment of the Credit Card Act, the mortgage provisions of the Dodd-Frank Act and the creation of the CFPB; however, both statistical and anecdotal information suggest that these initiatives, coupled with actions of the Federal Banking agencies, are having a chilling effect on the markets for consumer financial products and services.

At the outset, it is important to remember that we regulate providers of consumer financial products and services because of the importance of these products and services to American households and to the economy as a whole. Our goal should be to ensure that the markets for these products and services are fair and efficient and that consumers have access to these markets. In establishing the CFPB, the Dodd-Frank Act stated that the purpose of the CFPB is to "seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent and competitive."

This purpose statement sets a lofty goal that can be approached but may be very difficult to achieve. Congress recognized the difficulty in achieving this goal by including the word "seek" in the purpose statement. A key factor in seeking this goal is the recognition that there are two sides to every consumer financial product and service—the consumer and the provider. Pursuit of fairness for the consumer can make products or services uneconomical for providers and have an adverse effect on access to those products or services for some, or all, consumers.

Zeal in enforcing consumer laws, particularly those that do not have well defined standards such as the unfair, deceptive and, with the passage of the Dodd-Frank Act, abusive standards that originated in the Federal Trade Commission Act and are incorporated into the Dodd-Frank Act, can also adversely affect access to consumer services as providers become more reluctant to continue existing products and services and to introduce new ones. To illustrate the concerns, I will focus on three areas: the effect of the Credit CARD Act on access to consumer credit for everyday needs, the potential effect of the mortgage provisions of the Dodd-Frank Act on access to mortgage credit, and the chilling effect of uncertainty on access to consumer financial products and services generally.

**CREDIT CARD ACT**

The Credit CARD Act was enacted in response to a number of practices in the credit card market. For example, in seeking to provide access to credit to more consumers, credit card issuers had developed a practice of granting credit to cardholders with uncertain credit characteristics and, where the cardholder later exhibited higher risk characteristics, increasing the rate on the cardholders account to address that risk. Cardholders who thought that they were going to be able to enjoy credit at a lower initial rate viewed this practice as unfair; however, many cardholders continued to enjoy the rates that they had originally anticipated. The Credit CARD Act generally prohibited credit card issuers from raising rates on existing balances, except in very limited circumstances.

In connection with Federal Reserve Board rulemakings on this issue that preceded the Credit CARD Act, industry analysis indicated that restricting the ability to raise rates on existing balances would reduce credit card issuer revenue by billions of dollars and that in an effort to adapt to this loss of revenue credit card issuers would either raise interest rates on credit card accounts generally or remove risk from their portfolios by limiting access to credit by consumers that appeared to be higher risk.

Although data on the credit card market subsequent to the implementation of the Credit CARD Act has been affected by the financial crisis and the ensuing high levels of unemployment, data developed by the American Bankers Association, in conjunction with Argus Information and Advisory Services and Keybridge Research, shows marked changes in the credit card market since the implementation of the Credit CARD Act including a significant reduction in the availability of credit card accounts and, where such accounts are available credit card lines, to consumers with higher credit risk scores. These data also show that credit cards, where available, are increasingly being used as payment instruments rather than as means of obtaining household credit. For example, the proportion of credit card accounts that pay off their balance each month has increased even while monthly use of credit

cards has increased. At the same time, the effective finance charge yield on credit card portfolios, the amount actually paid for credit, has declined.

These data might be attributed to household deleveraging in the wake of the financial crisis, and indeed mortgage credit has also declined sharply; however, mortgager credit relative to disposable income had shown a marked bubble that appears to coincide with the bubble in housing prices during the first decade of this century, but credit card credit did not experience a similar bubble. Further, other forms of household credit, including automobile loans and student loans, appear to have increased as credit card credit has decreased.

A detailed analysis of these data is beyond the scope of this testimony and is best conducted by economists with a strong understanding of consumer financial transactions and the consumer financial markets, however, these data strongly suggest that significant changes in the regulatory environment for consumer financial products and services, such as the Credit CARD Act, can lead to a reduction in use or the availability of those services. These data also suggest that in order to achieve the goal of assuring that consumers have access to markets for financial products and services in regulating these markets, it is important to understand the consumer demand that these services meet. If new regulations result in unmet consumer demand because of a redirection in consumer access to financial products and services, that unmet consumer demand is highly likely to lead consumers to try to meet their needs from other, substitute sources. These substitute services may be more expensive or otherwise on less advantageous terms than the products or services that are no longer available. For example, in the case of the Credit CARD Act it is possible that consumers with higher credit risk scores who are no longer able to obtain credit cards to meet their needs for short-term credit may find themselves turning to other higher cost credit to meet their needs or to increasing their secured borrowing collateralized by their automobiles or their homes to provide a liquidity cushion to deal with unforeseen events.

At this point in time it is not clear how higher risk score consumers have met any needs for credit that they would have met through the use of credit cards before the Credit CARD Act was implemented. In formulating regulatory policy to meet the goals that the Dodd-Frank Act established for the CFPB, it is important to consider the effect of that policy on consumers' access to retail financial product and services and how consumers may meet their needs if access to the financial products or services that are the focus of new regulation requirements is curtailed.

**MORTGAGES**

In some cases the stakes are higher. In the case of home mortgages, the financial crisis demonstrated that the failure of a sufficient volume of retail consumer transactions can have destabilizing effects on the economy as a whole. This potential is significant in the area of home mortgages where mortgage credit outstanding represents almost half of nominal gross domestic product ("GDP"), and at the time of the financial crisis represented more than sixty percent of nominal GDP. The Dodd-Frank Act sought to protect consumers and improve the market for home mortgages, and potentially the market for residential real estate more broadly, by improving mortgage underwriting standards. It has taken some time for these changes to be put into place and not all of them have been fully implemented even now. Accordingly, it is difficult to assess the overall impact of these reforms on consumers' access to mortgage credit in developing regulatory policy for the home mortgage market. Nevertheless, early indications are that these reforms are materially reducing mortgage originations.

Given the significance of mortgage credit, and housing more broadly, in the economy, the potential effects of an undue reduction in mortgage originations on economic growth and employment have to be considered, as well as individual consumer's access to home mortgage credit.

**UNCERTAINTY**

Looking beyond the markets for credit cards and home mortgages credit, the markets for other consumer financial products and services are characterized by a higher level of uncertainty on the part of the providers of those products and services than I have observed before. This uncertainty appears to arise from the level of reliance by the CFPB and the Federal bank regulatory agencies on generalized guidance and enforcement actions to shape these markets and to address perceived harms to consumers. While financial institutions have long criticized regulatory initiatives as overly prescriptive, the absence of clarity can be as constraining as detailed rules, and in some cases more so. Broadly drawn "guidance", whether issued by the CFPB or the Federal bank regulatory agencies, can, and has, caused financial

institutions to abandon products even though those products were well received by their customers.

More difficult to measure is the extent to which new product initiatives are abandoned before they see the light of day out of fear that they will run afoul of hazily defined regulatory concerns. In particular the Federal banking agencies broad reliance on reputational risk is difficult to predict and or anticipate until it appears. Although banking institutions in particular rely on their reputations in the market to maintain their ability to raise deposits and fund themselves in the wholesale markets, in some cases reputational risk has been used in cases where the link to bank safety and soundness is not apparent.

Similarly, the labeling of practices as unfair, deceptive, or abusive in enforcement actions is difficult for financial institutions to interpret. This difficulty arises both from the vagueness of these standards themselves and from the generality of the language included in public enforcement actions. It is simply not possible to read public enforcement actions and to understand the specific practices that were led to the enforcement action. Given the complexity of financial products and services, an enforcement action directed at a specific term of a product or service, or to specific marketing language, but that is described in the public action as unfair or deceptive in connection with the product or service simply does not enable other providers of similar products or services to understand the specific regulatory concerns. This uncertainty makes it difficult to determine how to proceed with current products and services and to determine whether or how to offer new products or services.

This uncertainty could be reduced if regulators relied more often on a rule writing process where existing regulations are revised to address new issues or, if necessary, where new rules are created. The process of developing specific regulatory text, receiving comments on that text, and responding to the comments in final rules imposes a discipline on the regulatory process that increases the likelihood that the desired goals can be achieved and unintended consequences avoided. This process also gives providers of consumer products and services a better understanding of the agency's goals than vaguely worded enforcement actions and broadly worded guidance provide. This regulatory process also gives providers lead time to implement new requirements. This process is far more conducive to the fair, transparent and competitive markets envisioned by the Dodd-Frank Act than the apprehensive markets for consumer financial products and services that the current process is creating.

As the agency with the primary responsibility for writing rules with respect to consumer financial products and services, the CFPB is still developing its expertise with the regulatory process. As it gains experience with this process it should be able to streamline its information collection process so that providers of consumer financial products or services are not required to produce unnecessary information, and so that the CFPB itself can avoid focusing on collateral issues that do not directly promote the goals that it is seeking to achieve. The CFPB should also be able to sharpen its focus on key issues and potential solutions in order to reduce repetitive clarifications of rules that it does issue.

Thank you for the opportunity to be here today, I would be happy to respond to any questions.

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## PREPARED STATEMENT OF HILARY O. SHELTON

DIRECTOR, NAACP WASHINGTON BUREAU AND SENIOR VICE PRESIDENT FOR POLICY AND ADVOCACY

SEPTEMBER 18, 2014

Good morning, Senator Johnson, Senator Crapo, and esteemed members of this panel. Thank you so much for inviting me here today to testify and for soliciting the input of the NAACP on this very important topic.

Founded more than 105 years ago, in February 1909, the National Association for the Advancement of Colored People, the NAACP, is our Nation's oldest, largest, and most widely recognized grassroots-based civil rights organization. We currently have more than 1,200 active membership units across the Nation, with members in every one of the 50 States.

My name is Hilary Shelton, and I am the Director of the NAACP Washington Bureau and the Senior Vice President for Policy and Advocacy. I have served as the Director of the NAACP Washington Bureau, our Association's Federal legislative and political advocacy arm, for over 17 years.

**INTRODUCTION**

Financial empowerment and the economic security of the communities served and represented by the NAACP has, since our inception, been a cornerstone of our agenda. "Economic Sustainability" continues to be a priority for the NAACP in that it is one of the five "game changers" (along with criminal justice, education, health, and civic participation/voting rights) outlined in the most recent NAACP strategic plan, designed to carry us through our second century in fighting against racial bias and racial and ethnic inequality. To that end, in addition to being very active legislatively on issues from supporting an increase in the Federal minimum wage to opposing predatory lending of all sorts in our communities, the NAACP currently has a "Financial Freedom Center," whose purpose is to enhance the capacity of racial and ethnic minority Americans, and other underserved groups, through financial economic education; to promote diversity and inclusion in business hiring, career advancement and procurement; and to monitor financial banking practices and promote community economic development.

**THE HISTORY AND THE SITUATION TODAY FACING MOST RACIAL AND ETHNIC MINORITIES**

In recent times, the concentration of wealth in fewer and fewer hands has become an important subject of national debate. In 1982, the highest-earning 1 percent of families received 10.8 percent of all pretax income, while the bottom 90 percent received 64.7 percent. Three decades later, in 2012, the top 1 percent received 22.5 percent of pretax income, while the bottom 90 percent's share had fallen to 49.6 percent.[1] For the past 5 years, wages have risen for the wealthiest Americans while barely floating above inflation for most people.[2] Furthermore, wealth inequality is even greater than income inequality. While the highest-earning fifth of U.S. families earned 59.1 percent of all income, the *richest* fifth held 88.9 percent of all wealth.[3]

Unfortunately, the crisis of the racial wealth divide has still yet to be adequately discussed. The difference in median household incomes between white Americans and African Americans has grown from about $19,000 in 1967 to *roughly $27,000* in 2011 (as measured in 2012 dollars). Median African American household income was 59 percent of median white household income in 2011; yet as recently as 2007, black income was 63 percent of white income.[4]

The wealth gap, when combined with the disparate impact of the recession of 2008, has further caused severe, disproportionate, damage to the communities served and represented by the NAACP. As was quantified in a released just this last Monday by Standard & Poor's, States are struggling to meet the demands of funding programs including education, highways, and social programs such as Medicaid.[5] This lack of State funds most hurts those who can least afford it, neighborhoods and communities which are still reeling from the recession of 2008.

The recession of 2008 was tough on most Americans, but particularly and disproportionately rough on racial and ethnic minority communities. While White Americans made up the majority of the 2.5 million foreclosures completed between 2007 and 2009—about 56 percent—minority communities had significantly higher foreclosure rates.

While about 4.5 percent of white borrowers lost their homes to foreclosure during that period, African American and Latino borrowers had 7.9 and 7.7 percent foreclosure rates, respectively. That means that African Americans and Latinos were more than 70 percent more likely to lose their homes to foreclosure during that period.

Overall, blacks lost about 240,020 homes to foreclosure, while Latinos lost about 335,950, according to an analysis of government and industry data on millions of loans issued between 2005 and 2008—the height of the housing boom.[6]

So that brings us to today. Too many Americans, and especially racial and ethnic minority Americans, have lost their homes as well as their access to affordable and sustainable credit. One of the most basic, fundamental steps is owning a bank ac-

[1] Saez, Emmanuel, "Striking it Richer: The Evolution of Top Incomes in the United States" U.C. Berkley, September 3, 2013.

[2] Clark, Meagan "Rising U.S. Income Inequality Is Hurting State Tax Revenues" Standard & Poor's, September 15, 2014.

[3] Wolff, Edward N. "The Asset Price Meltdown and the Wealth of the Middle Class" The National Bureau of Economic Research, November 2012.

[4] Desilver, Drew "Five Facts About Economic Inequality" Pew Research Center, January 7, 2014.

[5] Boak, Josh "Wealth Gap Hurts State Budgets" *Washington Post,* September 15, 2014, p. A13.

[6] Center for Responsible Lending, "Foreclosures by Race and Ethnicity: The Demographics of a Crisis" June 18, 2010 *www.responsiblelending.org/.../foreclosures-by-race-and-ethnicity.html#sthash.geo75K3a.dpuf.*

count. It is among the most basic symbols of financial growth, maturity, security, and independence. Owning a bank account is a crucial step toward financial security and success. A bank account not only provides people with a vehicle for saving, it can help build credit and greater financial capability. While just over 8 percent of all American homes do not have a banking account, more than 20 percent of African Americans are outside of the American banking system.[7]

One direct result of being frozen out of the "traditional" banking system is more of a reliance on "nontraditional," or alternative sources of capital. By "nontraditional," I am referring to check cashers, title lenders, and payday lenders, among others, which usually lend relatively small amounts of money for the short term.

The problem with many of these loans is that they end up being expensive, and even predatory, often trapping the consumer in a cycle of debt when they are already having difficulties making ends meet. Check cashers, for example, typically charge up to 4 percent of the face value of a check—or $20 for a $500 check.[8] And a typical payday loan borrower is indebted for more than half of the year with an average of nine payday loan transactions at annual interest rates over 400 percent.[9]

## THE ROLE OF THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

One key component of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 was the creation of the Consumer Financial Protection Bureau (CFPB). The NAACP has been a strong and steadfast supporter of the CFPB since its inception, as it is the only agency within the Federal Government whose primary charge is the protection of the American consumer.

Since its inception the CFPB has taken great steps to limit the potential harm which financial tools and companies can impart on Americans. Over the past 3 year the CFPB has taken dramatic steps to halt the financial abuse of American consumers by financial companies. In many cases, the victims of these abuses are people of low and moderate income (LMI). Since 80 percent of African American families fall into this definition, the NAACP has worked closely with and monitored the impact of the CFPB on the communities served and represented by the NAACP since its creation over 3 years ago.

In its first 3 years, the CFPB has yielded aggressive, yet at the same time measured, results. Specifically, looking at the numbers alone:

**$4.6 Billion:** Money ordered in relief to consumers by CFPB enforcement actions.

**15 Million:** Consumers who will receive relief because of CFPB enforcement actions.

**$150 Million:** Money ordered to be paid in civil penalties as a result of CFPB enforcement actions.

**$75 Million:** Monetary relief provided to consumers as a result of CFPB supervisory actions.

**775,000:** Consumers who will receive remediation because of CFPB supervisory actions.

**400,000:** Number of complaints CFPB has received as of July 2014.[10]

In addition to congratulating the agency and its employees on a job well done to date, I would be remiss if I did not also give a shout out and high commendations to the Director of the CFPB, Rich Cordray. Under Rich Cordray's leadership, the CFPB has grown and it now has a staff of over 1,350 employees and is one of the most effective Federal agencies in town.

## RECOMENDATIONS

As the CFPB continues to mature and define its role in the regulatory space, the NAACP hopes that they will take a stronger look at the structural racism inherent in the provisioning of credit to people of color and its impact. Higher cost credit, or the lack of any credit, in the communities of color widens the racial wealth gap and concentrates African American and Latino families into areas of concentrated poverty. The NAACP feels that the CFPB, as the only Federal regulator solely fo-

[7] Selah, Makkada B. "20 Percent of African Americans Too Broke for Bank Accounts" Black Enterprise Magazine, September 16, 2014.

[8] Kim, Anne "CFED Fact File", The Corporation for Economic Development, November 2012.

[9] Center for Responsible Lending See more at: *http://www.responsiblelending.org/payday-lending/#sthash.6i1AGboi.dpuf.*

[10] Consumer Financial Protection Bureau, "Consumer Financial Protection Bureau: By the Numbers" July 21, 2014. *http://files.consumerfinance.gov/f/201407_cfpb_factsheet_by-the-numbers.pdf.*

cused on protecting the needs of the consumer, can play a key role in helping to shrink the unacceptable wealth divide.

Regarding the availability of credit and the availability of financial services from both deposit and nonbank lenders there continues to be seen a disparate lack of access to safe and affordable credit products in communities of color. The NAACP strongly urges the CFPB to study this phenomenon and to make recommendation for its rectification.

Other forms of credit also display sign of structural barriers, as the CFPB revealed in their analysis of auto lending. In particular, the prevalence of payday lenders in areas where banks are closing branches results in a stubbornly high level of un- and under-banked racial and ethnic minority families. Once these families lose access to traditional banks their ability to access credit is further constricted. We need to rid our neighborhoods of predators and stop the proliferation of abusive predatory lending products that strip, rather than build, financial health and wealth in our communities. While the CFPB cannot implement a nation-wide cap on interest rates (we strongly support the legislation introduced by Senator Cardin and Congressman Cartwright, S. 673 / H.R. 5130, which mandates an interest rate of no more than 36 percent APR), the Bureau can take affirmative steps to curb abusive lending or at least expose it.

In short, the CFPB has an obligation to bring meaningful reform to the marketplace. At the same time, the CFPB must take steps to allow legitimate, nonexploitative, nonpredatory credit to remain viable and readily available in every community. To that end, we urge that any rule addressing payday, car title or any other short-term lending product accomplish the following:

1. Requires the lender to determine the borrower's ability to repay the loan, including consideration of income and expenses;
2. Does not sanction any series of back-to-back, consecutive, or repeat loans;
3. Establishes an outer limit on length of indebtedness that is at least as short as the FDIC's 2005 guidelines—90 days in a 12-month period;
4. Restricts lenders from requiring a post-dated check or electronic access to a borrower's checking account as a condition of extending credit; and
5. Transparency of fees, penalties, additional interest rates, and pay-off costs.

Another consequence endured by families who lack access to traditional bank branches and bank accounts is the reduction of their credit profile. Credit scoring favors consumers who have access to traditional forms of credit, such as auto and home loans, credit cards, and personal loans. Thus, once again, racial and ethnic minorities are at a disadvantage when credit scoring and credit reports are increasingly used from everything from renting an apartment to getting a job.

Finally, the NAACP pledges to continue to work with the CFPB and any other entity to ensure that credit is accessible and affordable to all Americans, regardless of their race, ethnicity, gender, age, or any other unique characteristic or where they live.